

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JANE DOE,	:	CASE NO.: 2:20-cv-00459
	:	
Plaintiff,	:	JUDGE GRAHAM
	:	
vs.	:	MAGISTRATE JUDGE LITKOVITZ
	:	
ANDREW K. MITCHELL, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**PLAINTIFF’S MEMORANDUM CONTRA TO DEFENDANT CITY OF COLUMBUS
AND DEFENDANT ANDREW K. MITCHELL’S MOTION FOR JUDGMENT ON THE
PLEADINGS**

Now comes Plaintiff Jane Doe, by through her counsel David A. Goldstein Co., L.P.A., and hereby moves this Court to deny Defendant City of Columbus and Defendant Andrew K. Mitchell’s (collectively referred to herein as “Defendants”) Motions for Judgment on the Pleadings as Plaintiff has filed a Motion for Leave to Proceed Pseudonymously, or, in the alternative, a Motion for Leave to File an Amended Complaint that would render Defendants’ Motions moot. The grounds in support of this Motion are set forth in the Memorandum in Support, attached hereto and incorporated herein.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

This case arises out of Defendant Andrew K. Mitchell's ("Defendant Mitchell") rape and sexual assault of Plaintiff Jane Doe ("Plaintiff") as Defendant Mitchell was in the course and scope of his employment with Defendant City of Columbus ("Defendant Columbus") when the incident occurred. (Doc. 1). As a result, Plaintiff has asserted claims for false arrest, false imprisonment, rape, and use of excessive force, among others. (*Id.*, ¶¶ 8-9). Additionally, Plaintiff has asserted a *Monell v. Department of Social Services of New York*, 436 U.S. 658 (1978) action against Defendant Columbus and ten John Doe defendants ("Defendant Does") in their capacity as employees of the City of Columbus in its Department of Public Safety, Division of Police. (*Id.*, ¶ 9).

On September 8, 2020, Defendant Columbus filed a Motion for Judgment on the Pleadings, asserting that Plaintiff's Complaint must be dismissed as Plaintiff has not sought permission from the Court to proceed pseudonymously. (Doc. 16 at 2-3). On September 9, 2020, Defendant Mitchell filed a Motion for Judgment on the Pleadings, incorporating Defendant Columbus's Motion for Judgment on the Pleadings. (Doc. 18 at 1). On September 29, 2020, Plaintiff filed a Motion for Leave to Proceed Pseudonymously, or, in the alternative, a Motion for Leave to File an Amended Complaint so that Plaintiff could substitute "Jane Doe" for the named party in interest. (Doc. 19). If this Court grants either Plaintiff's Motion for Leave to Proceed Pseudonymously or Plaintiff's

Motion for Leave to File an Amended Complaint, Defendants' Motions for Judgment on the Pleadings will be rendered moot as Plaintiff will either get to proceed under a pseudonym or will amend her Complaint to substitute "Jane Doe" for the named party in interest. Therefore, Defendant City of Columbus and Defendant Andrew K. Mitchell's Motions for Judgment on the Pleadings warrant denial by this Court.

For all of the foregoing reasons, Defendants' Motions for Judgment on the Pleadings should be denied.

Respectfully submitted,

/s/ David A. Goldstein

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been sent via Electronic Mail this 29th day of September 2020 to **Scott C. Walker, Esq.**, Attorney for Defendant Andrew K. Mitchell, at Walker Novack Legal Group, LLC, 5013 Pine Creek Drive, Westerville, Ohio 43081, tom@walkernovack.com, **Thomas J. Novack, Esq.**, Attorney for Defendant Andrew K. Mitchell, at Walker Novack Legal Group, LLC, 5013 Pine Creek Drive, Westerville, Ohio 43081, scott@walkernovack.com, **Janet R. Hill Arbogast, Esq.**, Attorney for Defendant City of Columbus, at City of Columbus, Department of Law, 77 North Front Street, 4th Floor, Columbus, Ohio 43215, jrhillarbogast@columbus.gov, and, **Joseph M. Gibson, Esq.**, Attorney for Defendant City of Columbus, at City of Columbus, Department of Law, 77 North Front Street, 4th Floor, Columbus, Ohio 43215, jmgibson@columbus.gov.

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